

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MONSANTO COMPANY and
MONSANTO TECHNOLOGY LLC,

Plaintiffs/Counterclaim-Defendants,

vs.

E.I. DUPONT DE NEMOURS AND
COMPANY and PIONEER HI-BRED
INTERNATIONAL, INC.,

Defendants/Counterclaim-Plaintiffs.

Case No. 4:09-cv-00686 (ERW)

**DEFENDANTS' MOTION TO ENTER FOURTH AMENDED
CASE MANAGEMENT ORDER—PATENT/CONTRACT CLAIMS**

Defendants E.I. du Pont de Nemours and Co. and Pioneer Hi-Bred International, Inc. (collectively, “Defendants”) hereby move for the entry of a Fourth Amended Case Management—Patent/Contract Claims containing the following deadlines agreed to by the parties:

Close of Fact Discovery	September 30, 2011
Service of Opening Expert Reports	October 18, 2011
Service of Rebuttal Expert Reports	November 22, 2011
Deadline for Completion of Expert Depositions	December 30, 2011
Last Day for Filing Dispositive motions	January 4, 2012
Opposing Submissions to Dispositive Motions	January 30, 2012
Replies on Dispositive Motions	February 14, 2012
Pretrial Conference	April 5, 2012
Jury Trial Starts	April 16, 2012

These dates are the result of discussions with Monsanto lasting well over a week, and Monsanto agreed to these dates this past Tuesday, August 23, 2011. The instant motion is not being filed as a joint motion, however, because Defendants believe it is important to notify the Court at the earliest possible opportunity of the parties' agreed dates for the resolution of the patent/contract claims.

Defendants advise the Court that the parties are unable to reach agreement regarding the effect, if any, that the entry of the Fourth Amended Case Management Order – Patent/Contract Claims should have on the Case Management Order – Antitrust Claims (Dkt. 421). Monsanto has taken the position that the parties' respective position statements regarding these issues should be submitted jointly to the Court in the same document advising the Court of the agreed dates on the patent/contract claims. Monsanto, however, has failed to provide its position statement to Defendants for insertion into a joint filing, even though Defendants requested it days ago and informed Monsanto that they needed to make this submission to the Court today, and Defendants do not believe they can wait any longer to notify the Court of the dates on the patent/contract claims.

Defendants are prepared to make a joint filing or separate simultaneous filings regarding the effect, if any, that the entry of the Fourth Amended Case Management Order – Patent/Contract Claims should have on the Case Management Order – Antitrust Claims (Dkt. 421).

Dated: August 25, 2011

Respectfully submitted,

LEWIS, RICE & FINGERSH, L.C.

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Company and Pioneer Hi-Bred International, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on August 25, 2011, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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